

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ELECTRIC INSURANCE COMPANY,
ET AL.

Plaintiffs,

v.

PHYLLIS H. WALLACE, EXECUTRIX
OF THE ESTATE OF
CHRISTOPHER S. WALLACE, ET AL.

Defendants.

CASE NO. C-1-00-1056

JUDGE WILLIAM O. BERTELSMAN

**DEFENDANT CHRYSLER INS. CO.'S
MOTION FOR SHOW CAUSE ORDER**

Now comes Defendant, by and through counsel, and moves this Court to order Melanie L. Hoffer of 2061 State Route 125, Lot 59, Amelia Ohio 45102 to show cause why she should not be held in contempt of Court pursuant to FRCP 45 for failure to comply with a duly served subpoena. A brief in support is attached hereto and incorporated herein.

Respectfully submitted,

Brian A. Meeker (0063543)
Clifford C. Masch (0015737)
REMINER & REMINGER CO., L.P.A.
1400 Midland Building
101 Prospect Avenue West
Cleveland, Ohio 44115-1093
*Attorneys for Defendant
Chrysler Insurance Company*

BRIEF IN SUPPORT

Melanie L. Hoffer is a non-party witness to the motor vehicle accident in which the cross-claimant Estate of Wallace's decedent was fatally injured. Ms. Hoffer accompanied Christopher Wallace and Brian Downey (the tortfeasor driver) in the hours before the accident and was a passenger in the single vehicle accident. She is believed to have information relevant to the claims and defenses in the case at bar.

Pursuant to Civ. R. 45(E), any person who fails, without adequate excuse, to obey a subpoena may be held in contempt of court.

Melanie Hoffer was properly served with a subpoena requiring her attendance at a discovery deposition on April 21, 2005. Despite knowledge of the subpoena, Ms. Hoffer failed to appear and has since failed to return messages left at her residence or respond to a letter attempting to amicably resolve the "stand off." Accordingly, this Defendant is left with no choice but to request an order requiring Ms. Hoffer to appear at court to show cause why she should not be held in contempt pursuant to FRCP 45(e).

In support of this motion, Defendant submits the following:

- Exhibit A: affidavit of process server showing service of subpoena;
- Exhibit B: affidavit of process server showing attempted personal service on April 4, 6, 8, 9, 12, 16, and 20th; and
- Exhibit C: affidavit of counsel setting forth evidence of attempts to amicably coordinate the requested deposition.

Respectfully submitted,

/s/ Brian A. Meeker

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CERTIFICATE OF SERVICE

The foregoing motion was filed via the court's ECF/Pacer system, with service copies provided automatically to all counsel of record.

/s/ Brian A. Meeker
BRIAN A. MEEKER (0063543)